



TO: The Honorable the Members of the Board of Regents

FROM: John L. D'Agati 

SUBJECT: Proposed Amendments to Sections 80-3.15 and 80-4.3 of the Regulations of the Commissioner of Education Relating to the Addition of Certificate Titles Eligible for Grade Level Extensions, Limited Extensions, and a Statement of Continued Eligibility for Certain Teachers of Students with Disabilities

DATE: January 31, 2019

AUTHORIZATION(S):  

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt proposed amendments to §80-3.15 and §80-4.3 of the Regulations of the Commissioner of Education relating to the addition of certificate titles eligible for grade level extensions, limited extensions, and a statement of continued eligibility for certain teachers of students with disabilities?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendments are submitted to the Full Board for adoption as a permanent rule at the February 2019 Board of Regents meeting (Attachment A is a copy of the proposed amendment).

Procedural History

A Notice of Proposed Rule Making was published in the State Register on October 31, 2018. Supporting materials for the proposed amendments are available upon request from the Secretary to the Board of Regents. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received no comments on the proposed amendment.

Background Information

Through the former No Child Left Behind (NCLB) Act of 2001, teachers of students with disabilities in grades 7-12 who taught a special class were permitted to teach one or more core subject areas in their special class if they met the federal definition of “Highly Qualified” in those core subject area(s). The Highly Qualified status indicated that the teachers had the requisite knowledge to teach the core subject areas, even though they did not necessarily hold a certificate in the subject areas. The Every Student Succeeds Act (ESSA) eliminated the NCLB permission that allowed teachers deemed to be Highly Qualified to teach a special class in order for local educational agencies (LEA) to receive certain federal aid. However, the Department was always required to ensure that educators in LEAs receiving federal funding fulfill state certification requirements.

At its July 2018 meeting, the Board of Regents created limited extensions and a statement of continued eligibility in the core subject areas for teachers of students with disabilities who hold a Students with Disabilities Generalist certificate in grades 7-12 and teach one or more core subject areas in special classes. The limited extensions and statement of continued eligibility (SOCE) create pathways for teachers who hold a Students with Disabilities Generalist certificate in grades 7-12 to teach a subject in special classes.

During the public comment period on the initial regulatory amendment establishing the limited extensions and SOCE pathways for special classes, a commenter requested that SED also consider allowing teachers who hold the following special education-related certificates to be eligible for the limited extensions and SOCE: Students with Disabilities (Grades 7-12) content specialist certificates (e.g., Mathematics, Social Studies), Students with Disabilities (Grades 5-9) Generalist certificate, Students with Disabilities (Grades 5-9) content specialist certificates, and Special Education certificate (K-12).

The Special Education certificate was issued prior to February 2, 2004 and was replaced by the Students with Disabilities certificate titles. The Students with Disabilities content specialist certificates and Students with Disabilities (Grades 5-9) Generalist certificate are also no longer issued. Although these certificates are no longer issued, there are many practicing teachers who hold these certificate titles.

The Board of Regents also created grade level extensions for teachers of students with disabilities at their June 2018 meeting to address the shortage of these teachers across the state. Teachers who hold the Students with Disabilities Generalist certificate in the four grade bands of birth-grade 2, grades 1-6, grades 5-9, and grades 7-12 are

eligible for the grade level extensions. Teachers who hold a Students with Disabilities (Grades 5-9) content specialist certificate and Students with Disabilities (Grades 7-12) content specialist certificate are currently not eligible for grade level extensions.

Proposed Amendment

In response to this public comment, the Department proposes adding the Students with Disabilities (Grades 7-12) content specialist certificate, Students with Disabilities (Grades 5-9) Generalist certificate, Students with Disabilities (Grades 5-9) content specialist certificate, and Special Education (K-Grade 12) certificate to the list of certificate titles eligible for the limited extensions and SOCE for teachers of students with disabilities who teach a special class in grades 7-12. The proposed amendment also adds the Students with Disabilities (Grades 7-12) content specialist certificate and the Students with Disabilities (Grades 5-9) content specialist certificate to the list of certificate titles eligible for the grades 5-6 extension and grades 10-12 extension, respectively. Expanding the list of eligible certificate titles enables more qualified teachers of students with disabilities to seek the grade level extensions, limited extensions, and SOCE.

By allowing teachers who hold a Students with Disabilities content specialist certificate to be eligible for the limited extensions and SOCE, they can gain certification in subject areas different from their certificate. For example, teachers who hold a Students with Disabilities (Grades 7-12) Biology certificate would be able to pursue limited extensions or a SOCE in another science, such as chemistry or earth science.

There are several options from which teachers can chose to earn the limited extension. One option is to have at least two years of satisfactory full-time teaching experience in specified schools during which time the teachers met the qualifications to be considered highly qualified for a core subject area for the purposes of NCLB through passing the high objective uniform state standard of evaluation (HOUSSE) rubric. Another option is to complete at least 45 hours of acceptable continuing teacher and leader education (CTLE) focused in the subject area in which the limited extension is sought and have at least two years of satisfactory teaching experience in grades 7-12 in the subject area in which the limited extension is sought. The Department is proposing a technical amendment to require full-time teaching experience in both options, consistent with the Regents item approving these regulations in July so that these options are similar.

Related Regents Items

[December 2017](https://www.regents.nysed.gov/common/regents/files/1217p12hed1.pdf) (https://www.regents.nysed.gov/common/regents/files/1217p12hed1.pdf)

[April 2018](http://www.regents.nysed.gov/common/regents/files/418p12hed2revised.pdf) (http://www.regents.nysed.gov/common/regents/files/418p12hed2revised.pdf)

[April 2018](http://www.regents.nysed.gov/common/regents/files/418p12hed1.pdf) (http://www.regents.nysed.gov/common/regents/files/418p12hed1.pdf)

[June 2018](http://www.regents.nysed.gov/common/regents/files/618brca13.pdf) (http://www.regents.nysed.gov/common/regents/files/618brca13.pdf)

[July 2018](http://www.regents.nysed.gov/common/regents/files/718brca4.pdf) (http://www.regents.nysed.gov/common/regents/files/718brca4.pdf)

[October 2018](http://www.regents.nysed.gov/common/regents/files/1018hed3.pdf) (http://www.regents.nysed.gov/common/regents/files/1018hed3.pdf)

Recommendation

Department staff recommends that the Board of Regents take the following action:

VOTED: That §80-3.15 and §80-4.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective February 27, 2019.

Timetable for Implementation

If adopted at the February 2019 meeting, the proposed amendment will become effective on February 27, 2019.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 210, 215, 305, 3001, 3004 and 3009.

1. Subdivision (a) of section 80-3.15 of the Regulations of the Commissioner of Education shall be amended to read as follows:

§80-3.15 Statement of continued eligibility for teachers of students with disabilities who teach a special class in grades 7-12.

(a) Upon application, a person who meets the requirements of this section and is employed in a public school or other school for which teacher certification is required to teach a special class, as defined in section 200.1(uu) of this Title, may be issued a statement of continued eligibility pursuant to which such person may teach one or more of the following subject areas in a special class without a teaching certificate in these areas as is required under this Part: biology, chemistry, earth science, English Language Arts, mathematics, physics, and social studies; provided that such person holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist [(grades 7-12)], students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist; or the special education (grades K-12) generalist permanent certificate and meets the requirements of this section for each subject area for which the person is seeking a statement of continued eligibility.

2. Paragraph (1) of subdivision (r) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(r) Requirements for a grade-level extension to teach students with disabilities (grades 5-6). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 7-12 [generalist]) generalist and students with disabilities (grades 7-12) content specialist;

4. Paragraph (1) of subdivision (s) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(s) Requirements for a grade-level extension to teach students with disabilities in (grades 10-12). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 5-9) generalist and students with disabilities (grades 5-9) content specialist;

4. Paragraph (1) of subdivision (t) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(t) Requirements for the issuance of a limited extension to teach a specific subject in a special class in grades 7-12.

(1) Purpose. The purpose of limited extensions issued under this subdivision is to authorize a teacher who holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist [(grades 7-12)], students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, or the special education (grades K-12) generalist permanent certificate to teach one of the

following subject areas in a special class as defined in section 200.1(uu) of this Title: biology, chemistry, earth science, English Language Arts, mathematics, physics, and social studies.

5. Clause (a) of subparagraph (v) of paragraph (3) of subdivision (t) of section 80-4.3 of the Commissioner's regulations is amended to read as follows:

(a) at least two years of satisfactory full-time teaching experience in grades 7-12 in the subject area in which the limited extension is sought or in a closely related subject area acceptable to the department; or